



United States Department of the Interior
BUREAU OF LAND MANAGEMENT
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November 25, 2005

Instruction Memorandum No. WY-2006-010
Expires: 09/30/2007

To: Field Managers and Deputy State Directors
From: Acting State Director
Subject: Implementation of Section 390 Categorical Exclusion (CX) of the Energy Policy Act of 2005 for Oil and Gas Exploration, Development, and Associated Activities

Related Information: Section 390 of the Energy Policy Act of 2005 established five new statutory CXs that apply to oil and gas exploration and development. Washington Office Instruction Memorandum No. 2005-247 (IM 2005-247) issued September 30, 2005, included procedures to be used when reviewing oil and gas related projects under the five new statutory created CXs.

Effective immediately: All pending and new Applications for Permit to Drill (APD), all pending and new Rights-of-Way (ROW) grants, and all pending and new maintenance of minor activity actions supporting oil and gas development will be reviewed to determine if a CX under Section 390 of the Energy Policy Act can be applied.

To ensure consistency in documenting CX actions and decisions among BLM Wyoming Field Offices, the WSO has developed a template to record the Authorized officer's decision. The template is included as Attachment 1.

IM 2005-247 directs field offices to track the use of Section 390 CXs. Effective immediately, the weekly Wyoming APD tracking system will be revised to include the five categories and number of CX's completed. Field Offices are to report this data simultaneously with their weekly APD counts.

If you have any questions, suggested revisions to the template, or need more information about this process, please contact, Brenda Vosika Neuman, Physical Scientist at 307-775-6179 or Vickie Mistarka, Physical Scientist, at 307-775-6199.

/s/ Alan Rabinoff

1 Attachment:

1 - Decision on Action and Application for Categorical Exclusions for Activities Associated with Oil and Gas Development, Section 390, Energy Policy Act of 2005 (2 pp.)

Template
Decision on Action and Application for Categorical Exclusion
For Activities Associated with Oil and Gas Development
Section 390, Energy Policy Act of 2005

[Project Name]
Bureau of Land Management
[Name] Field Office

Description of the Proposed Action

[Provide a description of the proposed activity.] [Provide any pertinent facts including type of activity, applicable legal land description, and number of acres to be disturbed.]

Plan Conformance

[Provide statement that the proposed activity is in conformance and consistent with management objectives and decisions found in the [Name] Resource Management Plan approved on [Date of Approval].]

Plan of Operations

[State the proposal is designed in conformance with all bureau standards and incorporates appropriate best management practices, required and designed mitigation measures determined to reduce the effects on the environment.]

[For categories 1 through 3, provide a statement that a surface use plan of operations describing all proposed surface-disturbing activities has been reviewed and is approved pursuant to Section 17 of the Mineral Leasing Act, as amended.]

Compliance with the Energy Policy Act of 2005

[State that the proposed activity has been determined to be statutorily categorically excluded from NEPA documentation in accordance with Section 390 of the National Energy Policy Act of 2005.] [Identify which exclusion categories apply to the proposal.] [Insert short summary here stating the reason(s) for this determination]

[For category 1, identify which NEPA document(s) include the proposed activity.] [State this (these) document(s) has (have) been reviewed and has (have) been determined to consider potential environmental effects associated with the proposed activity at a site specific level.]

[For category 3, identify the name and date of approval of the NEPA document which identifies the proposed activity as reasonably foreseeable.]

[For category 4, identify the name and date of approval of the NEPA document approving the corridor where the proposed pipeline will be placed.]

Persons and Agencies Consulted

[Describe persons and agencies consulted, including the citation of laws and regulatory requirements (such as ESA and NHPA), the proposed activity and the steps taken based on this consultation][Provide a description of public involvement or review, if any, including posting of actions in public rooms, etc.]

Decision and Rationale on Action

I have decided to implement [insert description of action(s), and reference to any mitigation measures, COAs, map and drawings, etc., pertinent to decision.] [Provide statement these mitigation measures, COAs and/or terms and conditions provide justification for this decision and may not be segregated from project implementation without further NEPA review.] In addition, I have reviewed the plan conformance statement and have determined that the proposed activity is in conformance with the applicable land use plan(s). Further, I have reviewed the proposal to ensure the appropriate exclusion category as described in Section 390 of the Energy Policy Act of 2005 has been correctly applied. It is my determination that no further environmental analysis is required.

[If the decision is made for categories 2, 3, or 4, provide a date by which the activity must be implemented.]

Implementation Date

This project will be implemented on or after [insert implementation date and identify any conditions related to implementation.]

[Insert deciding official's name]

[Date]

[Insert deciding official's title]

Administrative Review or Appeal Opportunities

[State whether the approval of the activity is or is not subject to administrative appeal. If it is subject to appeal, provide the citation of the appeal rules and provide appeal information.]

Contact Person

For additional information concerning this decision, contact [Insert contact name, title, office name, mailing address, and phone number.]